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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,204	08/02/2001	Christopher S. Auttersen	AAS104A	5914

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WEINER & BURT, P.C.
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EXAMINER

PICKETT, JOHN G

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/921,204

Applicant(s)

AUTTERSON, CHRISTOPHER S.

Examiner

Gregory Pickett

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Office action acknowledges the applicant's Amendment A presented as Paper No. 5. Claims 1-20 are pending in the application.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Specification

3. In light of the applicant's amendment, the objection to the specification is hereby withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claimed limitation, "wherein neither said first party nor said second party is a service for transporting said container" in claims 1 and 11 is considered **new matter**,

since there is no exclusionary language in the specification which would preclude a transporting service from advertising in such a manner.

Claims 2-10 and 12-20 are dependent on claims 1 and 11 respectively, and are rejected for the above reason.

Claim Rejections - 35 USC § 103

5. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shackelford et al. (US 5,590,781).

Regarding claims 1 and 11, Shackelford et al. discloses in Figure 7 a shipping/packaging container body (200) having a first predetermined area (230) on an outer surface (Col. 7, ll. 12-18), first advertisement (240), and a second predetermined area (234) on an outer surface (Col. 7, ll. 12-18).

Shackelford et al. does not expressly disclose a first party owning said container, a second party or a second advertisement.

Stamps are a form of advertising of the United States Postal Service (USPS). Shackelford et al. teaches the use of stamps in second predetermined area (234), (col. 7, lines 12-18). The USPS is an entity of the federal government and is separate and distinct from private industry.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a first party manufacturing company own shipping/packaging containers for use in the delivery of its products since such ownership is common and conventional in the packaging art.

It would further have been obvious to one of ordinary skill to ship a shipping/packaging container using the USPS as a second party, since such a delivery method is common and conventional in the shipping art. Using the USPS, it would have been obvious to one of ordinary skill in the art to place a second advertisement (stamp) onto container body (200) in second predetermined area (234) since such a placement is common and conventional in shipment through the USPS.

As to claims 2 and 12, the second advertisement (stamp) is placed on second predetermined area (234) for shipment, second predetermined area (234) would otherwise be blank if container body (200) were hand delivered by the first party (the manufacturing company), or if container body (200) were used for internal distribution.

As to claims 3-4 and 13-14, second predetermined area (234) is allotted by the first party (the manufacturing company).

As to claims 5-8 and 15-18, second advertisement (stamp) is provided by the second party (USPS) to the first party (manufacturing company), and the first party (manufacturing company) determines second predetermined area (234).

As to claims 9-10 and 19-20, the USPS is not affiliated in any way to manufacturing companies.

Response to Arguments

6. Applicant's arguments filed April 7, 2003 have been fully considered but they are not persuasive. The addition of the limitation, "wherein neither said first party nor said second party is a service for transporting said container" constitutes new matter. As

such, the additional limitations locating the predetermined areas on the outer surface of the container do not distinguish the claimed invention over Shackelford et al.

7. The examiner interprets the lack of argument by the applicant over the stamp as a concession that a stamp is a form of advertising of the USPS.

8. The examiner further interprets the applicant's lack of arguments concerning container ownership, shipping via the USPS, and the use of a stamp as a concession of obviousness.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 703-305-8321. The examiner can normally be reached on Mon-Fri, 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

GP
Gregory Pickett
Examiner
May 20, 2003


Mickey Yu
Supervisory Patent Examiner
Group 3700